

23 MAY 1980

T-6
Contracts

MEMORANDUM FOR: Director of Logistics

FROM:

[REDACTED]
Chief, Procurement Management Staff, OL

SUBJECT: Incorporation of Security Requirements
into Agency Contracts

REFERENCE: Standard Security Procedures for Contractors
dated 1 May 1979

1. Introduction

The purpose of this memorandum is to request your approval to implement a major overhaul to our current procedures for incorporating security requirements into Agency contracts.

2. Background

a. Before we outline our proposed approach, a brief description of our current procedures should be noted. The first document contractors sign to acknowledge their responsibility for the Agency's special security requirements is the "Contractor's Secrecy and Security Agreement." A copy of this document is provided as Attachment A. The "Contractor's Secrecy and Security Agreement" is incorporated into our contracts by a clause in our General Provisions. (This is now accomplished in the schedule on the contract because the document referenced in the current General Provisions is obsolete.) No mention is made of the Agency's security manual in this agreement. In the past, the same clause in the general Provisions incorporated the "Security Requirements for Contractors" which

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[REDACTED] in the General Provisions. Procurement Note 120 issued 30 January 1979 required that the appropriate security manual be incorporated into the contract in the contract schedule. Procurement Note 135 dated 29 February 1979 directed that all new contracts and current active contracts incorporate the new security manual.

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SUBJECT: Incorporation of Security Requirements into
Agency Contracts

b. The new security manual (green book and white book) was published with a date of 1 May 1979. Subsequently, it was revised by letters (with various dates) to Agency contractors. The principal change involved substitution of one of the sections and other minor changes were also made. Later, Appendix VI, undated, and entitled "Security Requirements for Automated Information Systems" was issued. It is readily apparent that if our new security manual is going to be a "living document," subject to frequent change, we are going to have to revise our current procedures.

3. Proposed Approach

At the risk of our being accused of looking more and more like a Department of Defense (DOD) organization, we recommend adopting the basic approach used by DOD under its industrial security program. DOD enters into a security agreement with contractors which requires the contractors to maintain a security program which meets the requirements of the Department of Defense Industrial Security Manual for Safeguarding Classified Information as it exists and as it may be revised by the demands of national security as determined by the Government. The agreement does not obligate Government funds and has a caveat that the Government shall not be liable for any costs or claims of the contractors arising out of the agreement or instructions issued thereunder. However, the agreement does state that the parties may provide, in other written contracts, for security costs which may be properly chargeable thereto. The DOD approach obviates the need to amend every contract each time the DOD Industrial Security Manual is changed. We propose doing away with the "Contractor's Secrecy and Security Agreement" and adopt the approach followed by DOD. This means we will have to cover the main points of the "Contractor's Secrecy and Security Agreement" and modify the DOD agreement form to meet our special needs.

4. Special Concerns

a. The approach we are recommending is not a panacea. As you are aware, the indirect cost principles and accounting procedures with regard to security costs for our major contractors who also contract with DOD will be based on the DOD Industrial Security Manual. It is our view that only in the rarest circumstances should we agree to accept security costs

SUBJECT: Incorporation of Security Requirements into
Agency Contracts

as a direct charge to our contracts. We believe that a position paper should be prepared which outlines the basic arguments that can be used to counter contractor claims that they are entitled to be reimbursed direct costs because our security requirements may be somewhat different from DOD's.

b. A second problem is concerned with how we control changes to our security manual so as to avoid creating unfunded changes. When a unilateral change order is issued, the contracting agency must record, as an obligation, the amount of funds necessary to cover the Government's estimate of the cost of the change. As the manual is changed, a determination should be made that the revision will not result in a compensable charge to the Agency. This determination will not preclude a contractor from submitting a claim if one is warranted.

c. There is also a question of whether or not contractors will accept the approach recommended. Their reluctance would be based upon our emphasis on termination for default for failure to maintain a security program meeting our requirements.

d. We need to resolve who will sign the proposed security agreements for the Agency. Perhaps you might issue a special delegation to our security officers and allow them to execute the agreements on behalf of the Agency.

5. Recommendation

It is recommended that we prepare the necessary agreement and appropriate clauses to implement the approach mentioned in paragraph 3 above to incorporate security requirements into Agency contracts. Attached are the following documents:

Attachment A - CIA Form 2270 - Contractor's
Secrecy and Security Agreement

Attachment B - DD Form 254 - Contract Security
Classification Specification

Attachment C - DD Form 441 - Security
Agreement

SUBJECT: Incorporation of Security Requirements into
Agency Contracts

Attachment D - DAR Clause 7-104.12 -
Military Security Requirements
(1971 APR)



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APPROVED:

/s/ James H. McDonald

Director of Logistics

30 MAY 1980

Date

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